



Child Welfare Information Gateway

PROTECTING CHILDREN ■ STRENGTHENING FAMILIES

STATE
STATUTES
SERIES

Current Through
June 2007

Child Witnesses to Domestic Violence

In recent years, increased attention has been focused on children who may be affected by violence in the home, either as victims or as witnesses to domestic violence. Research shows that even when children are not the direct targets of violence in the home, they can be harmed by witnessing its occurrence.¹

The witnessing of domestic violence can be auditory, visual, or inferred, including cases in which the child witnesses the aftermath of violence, such as physical injuries to family members or damage to

¹ For additional information about the impact of domestic violence on children, see Child Welfare Information Gateway's *Children and Domestic Violence: A Bulletin for Professionals*, at www.childwelfare.gov/pubs/factsheets/domesticviolence.cfm.

Electronic copies of this publication may be downloaded at www.childwelfare.gov/systemwide/laws_policies/statutes/witnessdv.cfm

To find statute information for a particular State, go to www.childwelfare.gov/systemwide/laws_policies/search/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/witnessdvall.pdf

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personal property. Children who witness domestic violence can suffer severe emotional and developmental difficulties similar to those of children who are direct victims of abuse.² The legal system is beginning to recognize the need to protect and care for these children. Approximately 21 States and Puerto Rico currently address in statute the issue of children who witness domestic violence in their homes.³

Circumstances That Constitute Witnessing

A child is a witness to domestic violence when an act that is defined as domestic violence is committed in the presence of or witnessed by the child. In five States, the definition goes no further than that.⁴ In 14 States and Puerto Rico, the language used is more specific, stating that witnessing by a child occurs when the child is physically present or can see or hear the act of violence.⁵ Ohio law states that witnessing occurs when the domestic violence is committed “in the vicinity of the child,” meaning within 30 feet or within the same residential unit occupied by the child, regardless of whether the child is actually present or can actually see the commission of the offense.

In 10 States, the laws apply to any child who may be present or a witness to the act of domestic violence.⁶ In 10 States and Puerto Rico, the laws apply specifically to a child who is related to or a member of the household of the victim or perpetrator of the violence.⁷ The law in Indiana applies only to the noncustodial child of a noncustodial parent.

² Susan Schecter & Jeffrey Edelson, *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* (Reno, NV: National Council of Juvenile and Family Court Judges, 1999), p. 10.

³ The word *approximately* is used to stress the fact that the States frequently amend their laws. This information is current only through June 2007. Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Mississippi, Montana, Nevada, North Carolina, Ohio, Oklahoma, Oregon, Utah, and Washington address the issue in their statutes.

⁴ Arizona, California, Delaware, Florida, and Louisiana.

⁵ Alaska, Arkansas, Georgia, Hawaii, Idaho, Illinois, Indiana, Mississippi, Montana, North Carolina, Oklahoma, Oregon, Utah, and Washington.

⁶ Arizona, Georgia, Hawaii, Idaho, Louisiana, Montana, Nevada, Ohio, Oklahoma, and Utah.

⁷ Alaska, Arkansas, California, Delaware, Florida, Illinois, Mississippi, North Carolina, Oregon, and Washington.

Legal Consequences

In many States, a conviction for domestic violence that was committed in the presence of a child may result in harsher penalties. Approximately eight States consider an act of domestic violence committed in the presence of a child an “aggravating circumstance” in their sentencing guidelines. This usually results in a longer jail term, an increased fine, or both.⁸ An additional five States, while not using the term “aggravating circumstance,” provide for enhanced penalties.⁹ In five States, committing domestic violence in the presence of a child is a separate crime that may be charged separately or in addition to the act of violence.¹⁰

In addition to any criminal penalties, Illinois, Louisiana, and Nevada require perpetrators of domestic violence to pay for any counseling that a child victim may require. Ohio and Oklahoma require the offenders to undergo counseling. Indiana requires that visitation of a noncustodial parent who has been convicted of domestic violence in the presence of his or her noncustodial child be supervised for at least 1 year and not more than 2 years following the act of domestic violence.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State’s code as well as in agency regulations, case law, and informal practices and procedures.

⁸ Alaska, Arizona, California, Hawaii, Mississippi, Montana, Ohio, and Washington.

⁹ Arkansas, Florida, Idaho, Louisiana, and Oregon.

¹⁰ Delaware, Georgia, North Carolina, Oklahoma, and Utah.